

The tax imposed on food prepared for immediate consumption sold in the City of Chicago depends on the location of the retailer. See, 70 ILCS 3615/4.03(e). (This is a GIL.)

July 20, 2005

Dear Xxxxx:

This letter is in response to your letter dated February 28, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am an ordinary consumer, with a question about a cafe in my neighborhood that charges a higher sales tax on cups of coffee and tea (10%) than other cafes in the same neighborhood.

The cafe is new; it opened last Fall at LOCATION.

I asked the cafe manager about the tax, and he offered to supply me with documentation to justify it. This turned out to be mainly printouts from the Chicago Department of Revenue Web site. I attach these for your review.

When I asked the Chicago Department of Revenue to look at the materials given me by the cafe manager, with my receipts, and tell me whether his tax rates were legal or not, I was told they don't do that, and from there I've been bounced around—Investigations, Taxpayer Assistance, Problems Resolution, etc. Still, no one has been willing to give me an answer.

I now know that there are additional taxes that might apply above the state rate of 8.75% -- such as on sealed, bottled drinks, or if the cafe lies within a Metropolitan Pier and Exposition Authority district. PERSON in the Illinois Department of Revenue's Problems Resolution office in Chicago told me that if the cafe lies in such a district, the tax rates might be correct, but she was unable to confirm for me whether or not the cafe

does indeed lie in such a district. She said she herself has been unable to obtain up-to-date maps. PERSON tried hard to be helpful to me and was very kind, but she has a very thick accent and I was only able to understand maybe half of what she said. I believe she also said that the cafe manager ought to have a certificate from the Chicago Department of Revenue posted where customers can see it; this would have a taxpayer identification number that someone conceivably could use to double-check whether the taxes are legal. I found no such certificate in the cafe; there was only a health department inspection, and a certificate of license from the City of Chicago as a retail establishment.

I am unable to determine on my own whether and how such additional taxes might apply. I have been told I can report the cafe for suspected fraud, but really it strikes me as the more responsible thing to first try to determine whether in fact the rates are correct or not. **If the manager is indeed charging the correct amount of tax, why aren't other cafes in the neighborhood applying the same tax?** I found only one other place that seems to be applying a similar rate. (See attached receipt from ABC'; I believe that ABC and the cafe might both be owned by the same company.) XYZ is on the LOCATION as well, but it only charges 8.75%. Also, on the soft drink tax, I believe that someone named Alex in the Chicago Department of Revenue told me that this is a tax charged to wholesalers of the syrup from which fountain soda drinks are made, but that my cafe manager can only raise his prices to cover his tax liability – he is not to levy the tax himself. And in any case, isn't this misapplied on cups of tea and coffee? Further, I understand that the tax rate is to go up in July, 2005, but it seems this cafe might have been collecting tax at that higher rate since its opening in September, 2004—and isn't that illegal?

Please confirm whether or not these tax rates are justified. This cafe is always busy; if he is indeed charging more tax than he should, that is a huge pile of money coming out of the pockets of poor students like myself, and going who knows where. Receipts are attached from the cafe. I also attach receipts from other local cafes, for purposes of comparison.

Many thanks for your attention to this matter.

## **DEPARTMENT'S RESPONSE:**

The tax charged on a cup of coffee or tea (food prepared for immediate consumption, See 86 Ill. Admn. Code 130.310) at a Chicago coffee shop consists of a number of discrete taxes aggregated into one rate. Some of these taxes are administered by the Illinois Department of Revenue and others are not. This letter only addresses those taxes that the Illinois Department of Revenue administers.

One way to confirm exactly which of the taxes administered by the Illinois Department of Revenue a given business is registered to collect is through the business' Illinois Business Tax number on its certificate of registration issued by the Illinois Department of Revenue. All certificates of registration are required to be conspicuously displayed at the place of business. (See 86 Ill. Admn. Code 130.725) With this number, a person can go onto the Department's website and click on "Tax registration inquiry". Using the Illinois Business Tax number, this application will list the taxes that the business is registered to collect.

Based on the information you provided, it appears that the taxes administered by the Illinois Department of Revenue and imposed on a cup of coffee or tea at the address listed would total 8.75%. That tax would consist of the following components:

6.25%	- Retailers' Occupation Tax (State sales tax) (35 ILCS 120/2-10)
1.00%	- Chicago Retailers' Occupation Tax (City sales tax) (65 ILCS 5/8-11-1)
0.75%	- Regional Transportation Authority Retailers' Occupation Tax (RTA sales tax) (70 ILCS 3615/4.03(e))
0.75%	- Cook County Retailers' Occupation Tax (55 ILCS 5/5-1006) (Cook County sales tax)
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8.75%	- TOTAL

Beginning on July 1, 2005, the Chicago Retailers' Occupation Tax increased from 1% to 1.25%. As a result, the "TOTAL" listed above would increase to 9% on July 1, 2005.

The Illinois Department of Revenue also administers the Metropolitan Pier and Exposition Authority (MPEA) Retailers' Occupation Tax (70 ILCS 210/13(b)). This tax is imposed only in the portions of the metropolitan area of Chicago described in the statute at the rate of 1% of the gross receipts (i) from the sale of food, alcoholic beverages, and soft drinks sold for consumption on the premises where sold and (ii) from the sale of food, alcoholic beverages, and soft drinks sold for consumption off the premises where sold by a retailer whose principal source of gross receipts is from the sale of food, alcoholic beverages, and soft drinks prepared for immediate consumption. (70 ILCS 210/13(b)). It appears that the coffee shop you inquired about is not located in the MPEA. If it were, the taxes administered by the Illinois Department of Revenue on that same cup of coffee would increase to the rate of 9.75% before July 1, 2005 and 10% beginning on July 1, 2005.

In addition to the taxes administered by the Illinois Department of Revenue, the City of Chicago imposes a restaurant tax at the rate of 0.25%. It appears that this tax is included in the receipts you provided. For more information on this tax and the circumstances under which it is imposed, please consult the Chicago Department of Revenue.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore  
Associate Counsel

SJM:msk